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**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of:	)	
	)	
PETITION TO AMEND	)	Supreme Court No. R-10-_____
RULE 94(b), RULES OF THE	)	
SUPREME COURT OF ARIZONA	)	
_____	)	

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, respectfully petitions this Court to adopt the proposed amendment to Rule 94(b) of the Arizona Supreme Court Rules on an expedited basis to conform to related statutory amendments adopted in 2010. This rule proposal is required by the enactment of HB 2109 (2010 Ariz. Sess. Laws, ch. 32, 2<sup>nd</sup> Reg. Sess.).

**I. Background and Purpose of the Proposed Rule Amendment**

Rule 94(b) requires that the superior court clerk's office be open during business hours on all days except Sundays and legal holidays. A.R.S. § 1-301 outlines those days recognized as legal holidays for public employees, and includes the second Monday in October, "Columbus Day."

In 2009, the legislature amended A.R.S. §11-413 to allow a county's board of supervisors to adopt a resolution designating the fourth Friday in November (Black Friday) as a legal holiday in place of Columbus Day (2009 Ariz. Sess. Laws, ch. 45, 1<sup>st</sup> Reg. Sess., HB 2236). The superior court was not affected by this law, because no corresponding amendments were enacted for Title 12. HB 2109 authorizes a superior court presiding judge to match the superior court's holiday schedule to the county schedule. The bill amended A.R.S. § 12-127, as follows:

C. With the approval of the presiding judge of the county, business shall be transacted in the division of the superior court of that county on the second Monday in October if the board of supervisors designates the fourth Friday in November a legal holiday in place of the second Monday in October.

D. A division of the superior court shall not be open for the transaction of business on the fourth Friday in November if the division of the superior court of that county is open for the transaction of business on the second Monday in October pursuant to subsection C.

## **II. Contents of the Proposed Rule Amendment**

The proposed amendment to Rule 94(b), attached as Appendix A, is intended to conform the rule to the amended statute. The proposed new Comment to the rule will alert the public that superior court hours may vary from county to county.

## **III. Pre-Petition Distribution and Comment**

The petition has not circulated to any committees or individuals for pre-filing comments because of the short period of time since enactment of this legislation and the technical nature of the proposed change.

#### **IV. Request for Expedited Consideration and Immediate Effective Date**

Petitioner respectfully requests that the proposed rule amendment be made effective immediately upon its adoption by the Court, with a comment period to follow, as allowed by Rule 28(G), due to the fact that HB 2109 became effective on July 29, 2010 and will likely affect court business days in some counties in October 2010.

Wherefore, petitioner respectfully requests that the Supreme Court amend 94(b) as set forth in Appendix A.

RESPECTFULLY SUBMITTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

By /S/\_\_\_\_\_  
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## Appendix A

### Rules of the Supreme Court of Arizona

#### Rule 94. Superior Court Clerks

##### a. Duties of Superior Court Clerks.

1. through 3. [no changes]

**b. Clerk's Office and Orders by Clerk.** ~~The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Sundays and legal holidays.~~ All motions and applications filed in the clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, for entering defaults, and other proceedings which do not require allowance of order of the court are grantable of course by the clerk, but the clerk's action may be suspended or altered or rescinded by the court upon cause shown. The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Sundays and legal holidays, subject to the exceptions set forth in A.R.S. § 12-127(C)&(D).

c. through h. [no changes]

#### COMMENT

Rule 94(b) A.R.S. § 12-2-127(C)&(D) authorizes the presiding judge of the county to close the court on the day after Thanksgiving and keep the court open on Columbus Day, if the county board of supervisors has adopted a resolution designating the day after Thanksgiving as a legal holiday in place of Columbus Day, as permitted by A.R.S. § 11-413.